

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA
PHOENIX DIVISION**

IN RE: BARD IVC FILTERS PRODUCTS
LIABILITY LITIGATION

CASE No. 2:15-md-2641-DGC

MDL No.: 2641

This Document relates to:

Case No. 2:15-cv-01879-DGC

**MOTION TO AMEND COMPLAINT AND INCORPORATED
MEMORANDUM IN SUPPORT THEREOF**

NOW COMES Plaintiffs, LISA SCHWESKA and DANIEL P. SCHWESKA, individually and as wife and husband, by and through their undersigned attorneys, and pursuant to the Rule 15(a)(2) of the Federal Rules of Civil Procedure do file this Amended Complaint. A Memorandum in Support is attached hereto.

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**MEMORANDUM IN SUPPORT OF
MOTION TO AMEND COMPLAINT**

I. FACTS

- a. The Plaintiffs filed their Complaint for Damages against the Defendants on June 25, 2015, in the United States District Court for the Central District of Illinois. See Exhibit 1.
- b. The caption of said Complaint misnamed Lisa Schweska as Linda Schweska. Id.
- c. The Defendants' counsel has been contacted via email and has given consent in writing to the minor amendment. See Exhibit 2.

II. LAW

- a. Federal Rules of Civil Procedure Civ. Rule 15(a)(2) states:

“Other Amendments. In all other cases, a party may amend its pleading only with the opposing party's written consent or the court's leave. The court should freely give leave when justice so requires”.

III. DISCUSSION

This action was previously filed on June 25, 2015, the United States District Court for the Central District of Illinois, but mistakenly identified Lisa Schweska as Linda Schweska. This Amended Complaint is filed solely to correctly identify the Plaintiff as LISA SCHWESKA. Please see: *Plaintiff's Amended Complaint* attached hereto as Exhibit 3 and incorporated herein by reference.

Pursuant to Local Rule 15.1 please see Exhibit 4, wherein Plaintiff has indicated all changes to the Amended Complaint by underlining additional text and striking through all text to be deleted.

Inadvertently, counsel for Plaintiffs Schweska misnamed Mrs. Schweska in the caption of the Complaint. Upon discovery of the mistake, Plaintiffs' counsel contacted Defense counsel to obtain consent to simply change the name of Mrs. Schweska from “Linda” to “Lisa”. Defense

counsel consented to the change in writing. The Defendants consent to this change as it will not prejudice either party. Defendants written consent is attached hereto as Exhibit 2.

WHEREFORE, Plaintiff requests an Order granting Plaintiff's Leave to File an Amended Complaint, as described herein.

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CERTIFICATE OF SERVICE

I hereby certify that on this the 28th day of January, 2016, a copy of the foregoing was served electronically and notice of the service of this document will be sent to all parties by operation of the Court's electronic filing system to CM/ECF participants registered to receive service in this matter. Parties may access this filing through the Court's system.

/s/ Teresa C. Toriseva

Teresa C. Toriseva, Esq.